

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MAUREEN MCGINLEY, Grandmother;
MARTIN MILDREXLER, Natural Parent; and
MARTIN MILDREXLER, Natural Parent and
Next of Friend Layla Halverson;

Plaintiffs,

vs.

ALYSON GOEDKEN, Nebraska Department
of Health and Human Services; and JILL
AYERS, Family Support Worker, Visitation
Facilitator, Foster Mother, Nebraska
Department of Health and Human Services;

Defendants.

8:12CV3242

MEMORANDUM AND ORDER

Defendant Jill Ayers has filed a motion for court-appointed counsel. (Filing No. 11). A civil litigant has no constitutional or statutory right to a court-appointed attorney. The court may, however, make such an appointment at its discretion. [Davis v. Scott, 94 F.3d 444, 447 \(8th Cir. 1996\)](#). A trial court has broad discretion to decide whether both a pro se party and the court will benefit from the appointment of counsel, taking into account the factual and legal complexity of the case, the presence or absence of conflicting testimony, and the pro se party's ability to investigate the facts and present or defend the claims. [Id.](#)

Considering the pleadings, evidence, and arguments of record, the court finds appointment of counsel is not warranted in this case. The defendant has failed to show she has made any attempt to secure representation, or that she is unable to adequately litigate her claims and defenses. [Id.](#) See also, [28 U.S.C § 1915\(a\)](#).

Accordingly,

IT IS ORDERED:

- 1) Defendant Ayers' motion for appointed counsel, (filing no. 11), is denied.
- 2) On or before February 18, 2013, Defendant Ayers shall either: (a) obtain the services of counsel and have that attorney file an appearance in this case; or (b) file a statement notifying the court of her intent to litigate this case without the

assistance of counsel. The failure to do so may result in an entry of default and/or default judgment against Defendant Ayers.

January 28, 2013.

BY THE COURT:

s/ Cheryl R. Zwart

United States Magistrate Judge